

REMARKS

In the Office Action dated October 18, 2004, the Examiner rejected claims 1 and 10 under 35 U.S.C. § 102(b), and rejected claims 2, 3, 6, 7, 9, 11, and 27-34 under 35 U.S.C. § 103(a). Applicants' undersigned representative requested an interview with the Examiner, but an interview was refused based on the status of the case being after final. Applicants submit that claims 1-3, 6-7, 9-11, and 27-34 are in condition for allowance and respectfully request reconsideration.

1. Response to the 35 U.S.C. § 102(b) Podgorski '691 Rejection

Claims 1 and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,670,691 ("Podgorski '691"). In claims 1 and 10, Applicants recite a system and method for restricting a getter. The getter is located in a getter well. The getter well is located in a gyroscope block at a distance away from an optical cavity also located in the gyroscope block. A hole is located in the gyroscope block between the getter well and the optical cavity. The hole has a diameter substantially less than a diameter of the getter well, which limits gas flow between the getter well and the optical cavity. By limiting the gas flow into the getter well, the getter absorbs non-inert gas at a slower rate, which may increase the operational lifetime of a gyroscope. (See, e.g., Applicants' Specification, page 8, lines 6-11.)

The Office Action states that:

Podgorski discloses in Figure 1, a system for restricting a getter, comprising in combination: a getter (61) located in a getter well (18 and 24) wherein the getter well (18 and 24) is located in a gyroscope block (10), wherein the getter well (18 and 24) is located at a distance away from an **optical cavity (16, 19, and 22)** located in the gyroscope block (10); and a **hole (17, 20 and 23)** located in the gyroscope block between the getter well (18) and the optical cavity (16, 19 and 22).

(Office Action, page 2.) As described by Podgorski '691, "[c]avities 17, 20, and 23 form, at least in part, a triangular shaped optical closed-loop path." (Podgorski '691, column 2, lines 8-9.) These cavities (17, 20, and 23) are the optical cavity as is well known in the art. When properly identified, it is clear that Podgorski '691 does not show or suggest a hole located in the gyroscope block between the getter well and the optical cavity.

As shown in Figure 1 of Podgorski '691, the getter well and the optical cavity are connected, eliminating any possibility of a hole being located between the two. This difference between the Podgorski '691 teachings and Applicants' claimed invention is due to the nature of the problems being addressed. While Applicants teach restricting the getter, Podgorski '691 teaches "a method for introducing getter material" into gas discharge devices. (See, Podgorski '691, column 1, lines 7-10.)

Podgorski '691 describes sputtering the getter material so that atoms of the getter material are ejected in various directions leaving a uniform getter film on the cavity walls. (See, e.g., Podgorski '691, column 3, lines 2-9.) If there was a hole located between the getter well and the optical cavity having a diameter less than the diameter of the getter well, the sputtering of the getter material would be restricted, impacting the ability to form a uniform getter film on the cavity walls. Because of this negative impact to forming a uniform getter film on the cavity walls, Podgorski '691 **teaches away** from a hole located between the getter well and the optical cavity having a diameter substantially less than a diameter of the getter well.

As Podgorski '691 does not show or suggest a hole located between the getter well and the optical cavity having a diameter substantially less than a diameter of the getter well, Applicants believe that Podgorski '691 does not show or suggest each and every element of claims 1 and 10. Accordingly, Applicants submit that Podgorski '691 does not anticipate claims 1 and 10.

In light of the remarks, Applicants respectfully request withdrawal of the 35 U.S.C. § 102(b) rejections.

2. Response to the 35 U.S.C. § 103(a) Podgorski '691 and Galbrecht

Claims 2, 3, 6, 7, 9, and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Podgorski '691 in view of U.S. Patent No. 5,056,102 ("Galbrecht"). Claims 2-3 and 6-7 depend from claim 1. Claim 11 depends from claim 10.

As described above, Podgorski '691 does not show or suggest a hole located between the getter well and the optical cavity having a diameter substantially less than a diameter of the getter well. The Office Action cites to Galbrecht for the teaching that a barium alloy can be used as a getter material. (See Office Action, page 4.) However, this teaching fails to overcome the deficiencies identified in Podgorski '691. Accordingly, Applicants submit that claims 2-3, 6-7, and 11 are not obvious in light of the combination of Podgorski '691 and Galbrecht for at least the reasons described above with reference to claims 1 and 10.

In claim 9, Applicants recite a system for restricting a getter. The system includes a getter well located at a distance away from an optical cavity and a hole located in the gyroscope block between the getter well and the optical cavity. The hole has a diameter substantially less than a diameter of the getter well, which limits gas flow between the getter well and the optical cavity. As described above, the combination of Podgorski '691 and Galbrecht does not show or suggest a hole located between the getter well and the optical cavity having a diameter substantially less than a diameter of the getter well. Accordingly, the combination of Podgorski '691 and Galbrecht does not show or suggest each and every element of claim 9. Thus, Applicants submit that claim 9 is not obvious in light of the combination of Podgorski '691 and Galbrecht.

In light of the amendments and remarks, Applicants respectfully request withdrawal of these 35 U.S.C. § 103(a) rejections.

3. Response to the 35 U.S.C. § 103(a) Podgorski '985 and Common Knowledge Rejection

Claims 27-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,740,985 ("Podgorski '985") in view of knowledge of one skilled in the art. In claims 27, 31, and 32, Applicants recite a system and method for restricting a getter. A diffusion barrier is located on the getter, which reduces the rate at which the getter absorbs non-inert gases.

Podgorski '985 describes a method for preventing getter materials from entering into a lasing cavity by placing an end cover between a getter assembly and the lasing cavity. (See, e.g., Podgorski '985, column 1, line 66 to column 2, line 8.) Getter material is suspended within a cavity of the getter assembly. (See, e.g., Podgorski '985, column 2, lines 63-65.) The end cover completely covers a passageway into the cavity of the getter assembly. (See, e.g., Podgorski '985, column 2, lines 57-59.)

The Office Action states that Podgorski '985 does not teach a diffusion barrier located on the getter. (See Office Action, page 7.) However, the Examiner asserts that the diffusion barrier of Podgorski '985 (referring to the end cover 216) "is for reducing the amount of gas permeated into the lasing cavity and not for to prevent getter material from entering into the lasing cavity." (See Office Action, page 11.) However, this assertion is unsupported and in direct conflict with the teachings of Podgorski '985.

Podgorski '985 describes "[a]n object of the invention is to provide a getter assembly which may be attached to a laser block in which the getter materials contained within the getter assembly is prevented from entering into the lasing cavity itself." (Podgorski '985, column 1, line 65 to column 2

line 2.) In the detailed description, Podgorski '985 states that "[b]ecause of the 'sealing' function of the end cover 216, no particulate getter material matter can ever enter into the passageways and interconnected cavities of laser block 10." (Podgorski '985, column 3, line 53 to column 4, line 2.) Despite the Examiner's unsupported assertion, it is clear that Podgorski '985 teaches that the end cover is used to prevent getter material from entering into the lasing cavity.

Podgorski '985 uses the end cover to allow contaminate gases to flow into the cavity of the getter assembly and to prevent getter material from entering the lasing cavity. By arranging the end cover to be located on the getter, suspended **within** the cavity of the getter assembly, the end cover would not completely cover the passageway, and thus, the end cover would not prevent getter materials from entering into the lasing cavity. Thus Podgorski '985 **teaches away** from locating a diffusion barrier on the getter.

The Office Action states that it would have been obvious to one having ordinary skill in the art to "place the diffusion barrier on the getter material." (Office Action, page 11.) However, the Examiner bears the burden of establishing a *prima facie* case of obviousness. *In re Fritsch*, 972 F.2d 1260, 1265 (Fed. Cir. 1992). As the Federal Circuit has explained, "[o]bviousness cannot be established by combining the teaching of the prior art to produce the claimed invention, absent some teaching or suggestion to support the combination. Under section 103 teaching of references can be combined *only* if there is some suggestion or incentive to do so." *ACS Hosp. Systems, Inc. v. Motefiore Hosp.*, 732 F.2d 1572, 1577 (Fed. Cir. 1984); see also *In re Lee*, 277 F.3d 1338 (Fed. Cir. 2002).

The Examiner cites a reference that teaches away from placing the diffusion barrier on the getter material and then makes an unsupported conclusory statement that it would have been obvious to one having ordinary skill in the art to "place the diffusion barrier on the getter material."

Thus, the Examiner has failed to establish a *prima facie* case of obviousness. Accordingly, the combination of Podgorski '985 and the knowledge of one skilled in the art does not show or suggest each and every element of claims 27, 31, and 32.

The Office Action further states that it would have been obvious to a person of ordinary skill in the art to utilize barium nitride as the diffusion layer. (See Office Action, page 8.) However, this statement of the knowledge of one skilled in the art fails to overcome the deficiencies identified in Podgorski '985. Because the combination of Podgorski '985 and the knowledge of one skilled in the art does not show or suggest a diffusion barrier located on the getter, Applicants submit that claims 27, 31, and 32 are not obvious in light of the combination of Podgorski '985 and the knowledge of one skilled in the art.

Claims 28-30 depend on claim 27. Claims 33-34 depend from claim 32. Accordingly, Applicants also submit that claims 28-30 and 33-34 are not obvious in light of the combination of Podgorski '985 and the knowledge of one skilled in the art for at least the reasons described above with reference to claims 27 and 32.

In light of the above remarks, Applicants respectfully request withdrawal of these 35 U.S.C. § 103(a) rejections.

CONCLUSION

Applicants' representative attempted to discuss the references (in particular, the misinterpreted teachings of Podgorski '691 and Podgorski '985) with the Examiner and the interview request was denied. The Examiner is requested to contact Applicants' representative after reviewing this Response if he wishes to discuss the references in more detail than described herein.

In light of the above remarks, Applicants submit that the present application is in condition for allowance and respectfully request notice to this effect.

Respectfully submitted,

Date: December 20, 2004

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